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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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RELEASED

The Honorable Gilbert Gude
House of Representatives

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Dear Mr. Gude:

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Your March 27, 1973, letter requested information on the availability of advisory opinions issued to private parties by various executive branch agencies. By agreement with your office, we prepared questionnaires using the questions in your letter and submitted them to 61 departments and agencies. Copies of our letter and the questionnaire are enclosed. (See encs. I and II.) The definition of advisory opinions, as included in our letter to the agencies, was furnished by your office.

Because several agencies in certain departments responded separately, we received more than 61 replies. Enclosure III lists the departments and agencies which responded. We have not received a response from the Equal Employment Opportunity Commission, which informed us that it is experiencing difficulty in coordinating and processing the response. We will forward that response to you as soon as we receive it.

We furnished your office with copies of the comments received, compiled and indexed alphabetically by department or agency. In addition, we indicated whether the agency did or did not issue advisory opinions or qualified its response. If the agency did issue advisory opinions, we indicated whether it compiled the opinions and announced them to the public. We found that several agencies issued advisory opinions to private parties and that many of these opinions are available to the public. Frequently, however, the public is not informed of their availability.

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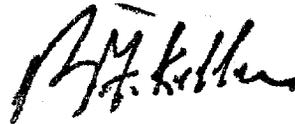
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Your office told us the information we provided would satisfy your immediate request.

Sincerely yours,

Deputy

A handwritten signature in black ink, appearing to read "A. J. Keller". The signature is written in a cursive style with a large initial "A".

Comptroller General
of the United States

Enclosures - 3



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

RESOURCES AND ECONOMIC
DEVELOPMENT DIVISION

JUN 13 1973

Dear

The General Accounting Office has received a congressional request to obtain certain information from executive departments and agencies of the Federal Government pertaining to oral or written advisory opinions issued to private parties.

An advisory opinion has been defined by the Congressman's office as follows:

"An advisory opinion means a written or oral opinion issued by an agency in response to a written or oral request by a private party for the agency's view of how the agency would react to a stipulated factual situation if the party caused such factual situation to arise. As such, it is an attempt to delineate the agency's response to a proposed course of action before such action is taken, such as a proposed merger of two corporations or a proposed profit-sharing plan. It would not, therefore, include opinions on actions already taken such as applications for grants, deductability for tax purposes of expenses already incurred, or eligibility for social security."

The attached questionnaire, which was prepared by the Congressman's office, should be answered by your agency and/or each agency within your department. The purpose of this questionnaire is to determine whether advisory opinions issued to private parties are made available to the general public.

We would appreciate your response by July 6, 1973. The replies should be returned to

COPY

ENCLOSURE I

ENCLOSURE I

U.S. General Accounting Office
Logistics and Communications Division
Materiel Management Group
441 G Street, N.W.
Washington, D.C. 20548

If you have any questions concerning this matter, please contact Mr. Carmen Smarrelli, Assistant Director, on 202-386-4922.

Your assistance will be most helpful in completing this study.

Sincerely yours,

Henry C. Lange

Director

ENCLOSURE II

Please answer each question for your agency or for each agency within your department. See cover letter for clarification of the term "advisory opinion."

1. Does your department, agency or commission issue advisory opinions?
2. If opinions are issued, are they oral, written, or both?
3. If opinions are oral, why?
4. If opinions are written, why?
5. If opinions are both oral and written, what is the basis for deciding whether to issue an oral opinion or a written one?
6. On what matters are opinions issued?
7. Who has the authority to decide whether an opinion will be issued?
8. What is the basis for deciding whether an opinion will be issued?
9. Who has the authority to decide on the position taken in the opinion?
10. For what, if any, subsequent decisions by your agency are advisory opinions relied upon as precedent?
11. To whom is the opinion communicated other than the party soliciting it?
12. Is the opinion announced to the public?
13. If the opinion is not announced to the public, why not?
14. With respect to written opinions, are they compiled by your agency? If so, how?
15. If written opinions are not compiled by your agency, why not?

ENCLOSURE II

16. With respect to any compilation of written opinions, are they indexed by subject matter? If not, why not?
17. If written opinions are compiled, are such compilations available to the public? If not, why not?
18. If compilations of written opinions are indexed by subject matter, are such indexes available to the public? If not, why not?

AGENCIES RESPONDING TO QUESTIONNAIRE

Agriculture, Department of:	
Consensus of 30 agencies	A F H
Animal and Plant Health Inspection Service	A F G
Commodity Exchange Authority	A D H
Packers and Stockyards Administration	A F H
Atomic Energy Commission	A D I
Civil Aeronautics Board	C F I
Civil Service Commission	C E G
Commerce, Department of:	
Patent Office	C F I
National Oceanographic and Atmospheric Administration	A F H
Maritime Administration	A F I
Office of Foreign Direct Investments	C E H
Office of Export Control	A E H
Commission of Fine Arts	B E H
Construction Industry Stabilization Committee	C F I
Cost of Living Council	C D H
Defense, Department of	B E H
Delaware River Basin Commission	B E H
District of Columbia	B E H
Environmental Protection Agency	C E H
Export-Import Bank of the United States	B E H
Farm Credit Administration	B E H
Federal Communications Commission	A D G
Federal Deposit Insurance Corporation	A F I
Federal Home Loan Bank Board	A D I
Federal Maritime Commission	C F I
Federal Mediation and Conciliation Service	B E H
Federal Power Commission	B E H
Federal Reserve System	A D G
Federal Trade Commission	A D G
General Services Administration	C F I
Health, Education, and Welfare, Department of:	
Public Health Service (except Food and Drug Administration)	B E H
Office of Education	B E H
National Institute of Education	B E H
Social and Rehabilitation Service	C E H
Office of Human Development:	
Administration on Aging	A F G
Juvenile Delinquency Prevention Act	A E H
Office of Child Development	A E H

Social Security Administration	A E H
Office for Civil Rights	A E H
Food and Drug Administration	A F I
Housing and Urban Development, Department of	A D H
Indian Claims Commission	B E H
Inter-American Foundation	B E H
Interior, Department of the	A D I
Internal Revenue Service (Office of Stabilization)	C F H
Interstate Commerce Commission	A F I
Justice, Department of:	
Antitrust Division	C F I
Criminal Division	C E H
Law Enforcement Assistance Administration	C F I
Rest of the Department	B E H
Labor, Department of:	
Bureau of Labor Statistics	B E H
Occupational Safety and Health Administration	B E H
Bureau of International Labor Affairs	B E H
Office of the Secretary	B E H
Office of the Solicitor	A D I
Employment Standards Administration	A D G
Labor Management Services Administration	A D I
Manpower Administration	B E H
Region I	B E H
National Aeronautics and Space Administration	B E H
National Credit Union Administration	B E H
National Foundation on the Arts and the Humanities	B E H
National Labor Relations Board	C D G
National Mediation Board	B E H
National Science Foundation	B E H
Occupational Safety and Health Review Commission	B E H
Overseas Private Investment Corporation	B E H
Postal Rate Commission	C F G
Railroad Retirement Board	A D I
Renegotiation Board	B E H
Securities and Exchange Commission	C D I
Selective Service System	B E H
Small Business Administration	A D I
Smithsonian Institution	B E H
State, Department of	A E H
Subversive Activities Control Board	B E H
Tennessee Valley Authority	C F I
Transportation, Department of:	
Policy, Plans, and International Affairs	A F H
Office of Pipeline Safety	A D G

Bureau of Motor Carrier Safety	A D I
Traffic Safety	A D I
Federal Aviation Administration	A F I
Coast Guard	A E I
Rest of the Department	B E H
Treasury, Department of the:	
Bureau of Accounts	B E H
Bureau of Public Debt	B E H
Office of the Treasurer	B E H
Bureau of Engraving and Printing	B E H
Bureau of the Mint	B E H
Federal Law Enforcement Training Center	B E H
U.S. Savings Bonds Division	B E H
Bureau of Alcohol, Tobacco and Fire Arms	A F I
Bureau of Customs	C D G
Internal Revenue Service	C F I
Office of the Comptroller of the Currency	A D I
Office of Foreign Assets Control	A F I
Office of Revenue Sharing	A D H
United States Information Agency	B E H
United States Postal Service	A D H
United States Tariff Commission	B E H
Veterans Administration	B E H

Legend

A Advisory opinions issued
 B Advisory opinions not issued
 C Answer qualified on issuance of opinions
 D Opinions compiled
 E Opinions not compiled
 F Answer qualified on compilation
 G Opinions announced to public
 H Opinions not announced to public
 I Answer qualified on announcement